S.B. CIVIL MISC. APPEAL NO. 565/2007
(Poornaram & ors. Vs. Malaram & ors.)

Date of Order :: 8th February 2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Ajay Vyas for Mr.B.K.Vyas for the appellants.

...

Having heard learned counsel for the appellants and having perused the award impugned, this Court is satisfied that this appeal for enhancement over the amount of compensation awarded by the Tribunal remains bereft of substance.

For awarding compensation to the parents and wife of the vehicular accident victim Harji Ram, about 19 years in age and said to be working as Khalasi on a truck, the Tribunal has not accepted assertion of the claimants about monthly income of the deceased at Rs.4,000/- particularly in view of the statement of the truck owner, Mala Ram who stated making payment of wages at Rs.50/- per day to the deceased. The Tribunal has taken monthly income of the deceased on the basis of statement of his employer at Rs.1,500/- and after deduction of one-third therefrom, has taken loss of contribution

for the claimants at Rs.12,000/- per annum and with application of multiplier of 16 has assessed pecuniary loss at Rs.1,92,000/-. Further, the Tribunal has proceeded to allow Rs.20,000/- to the wife of the deceased towards loss of consortium and Rs.20,000/- each to the parents of the deceased towards loss of services of their son. In this manner, the Tribunal has allowed non-pecuniary loss at Rs.60,000/- and while further allowing Rs.5,000/- towards funeral expenses has awarded compensation in the sum of Rs.2,57,000/- and has also allowed interest at the rate of 7.5% per annum from the date of filing of claim application.

Learned counsel for the appellants has contended that the Tribunal has erred in assessing pecuniary loss on a static figure of income of the deceased at Rs.1,500/- per month and not allowing anything towards future prospects; however, such submissions do not merit acceptance for the reason that deceased was not in any settled job or employment nor has been shown possessing any such qualification for which reasonable possibility of future enhancement in income could be considered. The assessment of pecuniary loss as made by the Tribunal cannot be said to be improper or inadequate. Moreover, the Tribunal has awarded non-pecuniary loss rather on the higher side and the ultimate award made by the

Tribunal in the sum of Rs.2,57,000/- cannot be said to be grossly inadequate. The Tribunal has not restricted even on the rate of interest. In the ultimate analysis, the award in question rules out any scope of enhancement.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

MK